IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/03/2004

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.8743 OF 2001

T.S. Baskaran .. Petitioner

-Vs-

1. The Director of Collegiate
Education, College Road,
Chennai 6.

2. The Registrar,
Bharathidasan University,
Trichirapalli 620 024.

3. The Secretary,
A.V.V.M. Sri Pushpa College,
(Autonomous), Poondi 613 503.

4. The Principal,
A.V.V.M. Sri Pushpa College
(Autonomous), Poondi 613 503. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.R. Muthukannau

For Respondent-1 : Mrs. Thenmozhi Shivaperumal
A.G.P.
Respondent-2 : Mr.D. Dorairajan

:JUDGMENT

Prayer in this writ petition is for issuing a writ of certiorarified mandamus for quashing the records in Mu.Mu.No.241/G2/2001 dated 21.3 .2001 issued by the first respondent.

2. Fourth respondent, A.V.V.M. Sri Pushpa College, is a private college (Autonomous) affiliated to the second respondent, Bharathidasan

University. Petitioner passed M.Sc., in Computer Science in the year 1990 and subsequently he acquired M.Phil qualification in June, 2000. The petitioner was working as Lecturer from 10.8.1990 in the Evening Section of the fourth respondent College in Computer Science. A vacancy having arisen in the Day College, fourth respondent called for the list of eligible candidates from the Employment Exchange on 4.7.1 998. The petitioner□s name had also been sponsored. Fourth respondent selected the petitioner as Lecturer in Computer Science in Day College provisionally, subject to the approval of termination of another Lecturer and accordingly, the petitioner joined on 16.9.1998. While the matter stood thus, termination of the previous Lecturer was approved and the petitioner was appointed on regular basis from 1.6.1999, subject to the approval of the Director. Thereafter, fourth respondent College sent necessary proposal to the University, the second respondent, seeking approval of the qualification. The second respondent by letter dated 13.4.1999 approved the qualification subject to the condition that the petitioner should qualify in SLET/UGC National Level Eligibility Test before June 2000. Subsequently, however, it was brought to the notice of the University that the petitioner had worked continuously as Lecturer in Computer Science in the Evening College and such appointment having been made before 1991, when the requirement regarding such qualification had been introduced for the first time, the petitioner may be exempted from acquiring such qualification. Considering all the relevant facts and circumstances, the University by its Proceedings dated 25.9.2000 passed a fresh order withdrawing such a condition and approving the qualification of the petitioner in the post of Lecturer in Computer Science. In other words, the University did not have any objection to the petitioner continuing as the Lecturer in Day College. However, the respondent No.1 under the impugned proceedings dated 21.3.2001 issued direction as contained in second paragraph of the said letter to the effect that the petitioner did not have the required qualification and his appointment has been made from the lapsed list of Employment Exchange and as such approval of his appointment cannot be granted. The aforesaid portion of the impugned letter dated 23.1.2001, so far as it relates to the petitioner, is being challenged in this writ petition.

3. A counter affidavit has been filed by the first respondent and a separate counter affidavit has been filed on behalf of the second respondent University. In the counter affidavit filed by the University, it has been indicated that requirement relating to pass of SLET/ UGC NET had been waived by the University considering all the relevant facts and circumstances, particularly in view of the fact that the petitioner has been initially appointed in 1990, when there was no such requirement.

4. The first respondent in his counter has however opposed the writ petition. It has been contended that such appointment has been made in violation of UGC guidelines. It has been further contended that selection on the basis of a lapsed list is not valid.

5. So far as the question of selection on the basis of a lapsed list is concerned, it is apparent that the list was dated 30.7.1998 and the selection had taken place and appointment had been made on 16.9.1 998 initially on provisional basis and subsequently on 1.6.1999 on regular basis.

In the Employment Exchange letter dated 30.7.1998 it is indicated that the list was valid for only 6 months from the date of the list and it was further indicated that however, the list was valid for one year for Schools and Colleges for teaching jobs only. In view of the above, it is quite apparent that the regular appointment dated 1.6.1999 was within the stipulated period.

6. So far as the so called non-eligibility of not having passed SLET/UGC NET is concerned, in view of the specific order passed by the University exempting the petitioner from appearing in such examination, it would not be proper on the part of the first respondent to refuse approval in respect of appointment of the petitioner. The University had considered the fact that the petitioner has been appointed as Lecturer in the Evening Section of the College in 1990, much before introduction of such condition. Moreover, from the counter affidavit of the first respondent it is apparent that as per UGC letter No.F4-12 /86 (NET)dated 12.9.1998 any case for relaxation in qualification in these subjects (Computer Applications and Electronics Science) can be considered by the University as only University is empowered to give relaxation in qualification on case to case basis with prior approval of the Commission before appointment." In the present case, it is apparent that a post facto exemption has been granted by the University. It is the stand of the first respondent that prior approval of the UGC has not been obtained. Even assuming that no such prior approval has been obtained by the University from UGC, that being essentially a matter between the UGC and the University, the appointment should not have been disapproved on that basis. This conclusion is reached on the peculiar facts and circumstances of the present case, more particularly in view of the fact that the petitioner had been appointed as Lecturer in the Evening section in the same subject in 1990, when there was no such requirement. It is no doubt true that the requirement of the UGC regarding SLET/NET is with a view to improve the standard of the Lecturers. However, it would not be proper to apply such principle in a mechanical manner without taking into consideration the peculiar facts and circumstances of the present case. Since the petitioner has been appointed as Lecturer in the Evening Section of the College in 1990, the valuable experience gathered by him was considered by the University and relaxation was granted by the University. The second respondent University is the authority to maintain standard of education and since the University had granted exemption, it was not proper on the part of the first respondent to insist upon such factor.

7. For the aforesaid reasons, the writ petition is allowed and paragraph 2 of the impugned letter dated 21.3.2001, so far as it relates to the petitioner, is quashed. There will be no order as to costs.

Index : Yes
Internet : Yes

dpk

To

1. The Director of Collegiate

Education, College Road,
Chennai 6.

2. The Registrar,
Bharathidasan University,
Trichirapalli 620 024.

3. The Secretary,
A.V.V.M. Sri Pushpa College
(Autonomous), Poondi 613 503.

4. The Principal,
A.V.V.M. Sri Pushpa College
(Autonomous), Poondi 613 503.